

EXXON CORP.

IBLA 78-127

Decided August 1, 1978

Appeal from decision of the Director, Geological Survey, which affirmed the requirement of an OCS order that wells be shut in during welding and burning operations. (GS-94-O&G.)

Affirmed.

1. Oil and Gas Leases: Generally -- Oil and Gas Leases: Production -- Outer Continental Shelf Lands Act: Oil and Gas Leases -- Outer Continental Shelf Lands Act: Operating Procedures

The Department of the Interior has the authority to issue orders to oil and gas lessees to protect all of the natural resources of the Continental Shelf. An order which requires lessees to shut in wells during welding or burning operations will be sustained on appeal as not being arbitrary or unjustified where the record shows that a number of companies had followed the practice even when it was not required, where the order is not so prohibitive as to effect a pro tanto cancellation of the lease, and where departures from the order may be granted in certain situations.

APPEARANCES: A. C. Garner, Jr., Manager, Production Department, Southeastern Division, Exxon Corporation, and John F. Reid, Esq., for appellant.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Exxon Corporation has appealed from a decision of the Director, U.S. Geological Survey, GS-94-O&G, which sustained the requirement of section 4.D(2)(d)(i)(g) of OCS Order No. 8 for the Gulf of Mexico, 41 FR 37616, 37622 (September 7, 1976), effective October 1, 1976, which states: "All other producible wells should be shut-in at the surface safety valves while welding or burning in the wellhead or production area."

Appellant's basic contention is that with proper precautions these operations may be safely conducted without stopping production and that the requirement of shutting in the well is unreasonable because it diminishes production. These contentions were made in comments by the industry on the proposed order, as well as in the appeal before the Director. In his decision sustaining the order, the Director stated:

The Geological Survey responded to the industry comments with the following rationale (published at 41 FR 37619):

USGS Rationale. This subparagraph was not changed. We believe that all welding or burning operations

in the area of the wellhead, well bay, or production areas are potentially hazardous, and the possibility of potential fire and/or explosion should be precluded by all means. Except in emergencies, welding operations should be scheduled when the platform is shut-in.

In reaching the conclusion stated above, the Area Supervisor was clearly balancing the nation's need for immediate production versus the benefits achieved with prudent operating procedures and the accompanying short-term production decrease. In all but exceptional circumstances, production interruptions merely delay production and do not diminish the total petroleum recovery from a field. Therefore, there is no net energy loss to the nation from the requirement of subsection (g).

The Director further noted that a safety manual prepared for internal use by several oil companies similarly required wells to be shut in during welding or burning operations. Finally, the Director noted that departures from this requirement may be permitted on a case-by-case basis pursuant to 30 CFR 250.12(b). Indeed, appellant states it has obtained departures to allow welding on platforms in the well bay or production area while maintaining production.

Appellant hypothesizes that recovery may be diminished in situations where shut-in wells are not returned to production, but this would clearly be due to factors in addition to the requirement of subsection (g). Appellant offers no satisfactory reason why such exceptional situations are not adequately treated on a case-by-case basis as the current procedures provide. Appellant further contends that the order is arbitrary and unjustified as it:

[I]s not supportable in the face of (1) actual OCS accident experience; (2) the detailed welding practices and procedures requirements included in revised OCS Order No. 8 under Section 4.D(2)(d); and (3) the new requirement contained in Section 4.D(2)(c) of revised OCS Order No. 8 for a contingency plan covering simultaneous conduct of production operations and other activities.

(Statement of Reasons, 4). Appellant's arguments do not persuade us to reverse the Director. 1/

[1] Appellant does not question the authority of this Department to promulgate OCS orders necessary to protect all of the natural resources of the Outer Continental Shelf. It is clear this Department has such authority. 43 U.S.C. § 1334(a)(1) (1970); 30 CFR 250.12(a); see Union Oil Co. of California v. Morton, 512 F.2d 743 (9th Cir. 1975). Nor does appellant contend that the

1/ Appellant points to a table of welding-related accidents which occurred prior to the time when subsection (g) became effective, and generally concludes that the severity of the accidents bears no relation to the continuation of production, an analysis with which the Director disagrees. We only note that although continued production was not prohibited during welding and burning operations, we cannot assume on the basis of this record that production was in fact continued in each incident in view of the practice of a number of companies to voluntarily shut in wells during such operations. Thus, the table by itself does not sustain appellant's conclusion that continuing production does not pose a significant hazard during welding and burning operations.

requirement is so restrictive that it effects a pro tanto cancellation of the lease. See Union Oil Co. of California v. Morton, supra. It is clear it does not. The fact that a number of companies had voluntarily adopted the practice prior to the promulgation of the revised OCS order belies appellant's claim that the practice is unreasonable. Indeed, the fact that relief from subsection (g) may be granted pursuant to 30 CFR 250.12(b) suggests that the real issue appellant raises in this appeal is not the reasonableness of the requirement itself but, rather, the reasonableness of the procedure by which a lessee may obtain permission to carry on welding and burning without shutting in the well.

The effect of the present rule structure ensures a case-by-case review of requests to allow welding and burning operations while production continues. Although this process may be more time-consuming, we do not find it unreasonably so. In view of the hazard involved, the procedure is not inconsistent with the oil and gas supervisor's responsibility under 30 CFR 250.12(a) "to issue OCS Orders and other orders and rules necessary for him to effectively supervise operations and to prevent damage to, or waste o[f], any natural resource, or injury to life or property." We find that the general requirement is not arbitrary or unjustified.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Joan B. Thompson
Administrative Judge

We concur:

Newton Frishberg
Chief Administrative Judge

Edward W. Stuebing
Administrative Judge

